

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 998

Introduced by Senator Margett

(Coauthor: Senator Battin)

*(Coauthors: Assembly Members Daucher, DeVore, Haynes, Huff,
Huston, and Maze)*

February 22, 2005

An act to add Section 6385.5 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 998, as amended, Margett. Sales and use tax: exemptions: fuel and petroleum products.

The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. That law provides various exemptions from that tax.

This bill would, ~~on and after January 1, 2008,~~ provide an exemption from that tax for the sale of fuel and petroleum products to air common carriers for immediate shipment outside this state for consumption in the conduct of their business, as specified.

Counties and cities are authorized to impose local sales and use taxes in conformity with state sales and use taxes. Exemptions from state sales and use taxes enacted by the Legislature are incorporated into the local taxes.

Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state

shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6385.5 is added to the Revenue and
2 Taxation Code, to read:

3 6385.5. (a) Notwithstanding Section 6385, there are
4 exempted from the computation of the amount of the sales tax the
5 gross receipts from the sale of fuel and petroleum products to an
6 air common carrier, for immediate shipment outside this state for
7 consumption in the conduct of its business as a common carrier
8 after the first out of state destination. To qualify for the
9 exemption the common carrier shall furnish to the seller an
10 exemption certificate in writing stating the quantity of fuel and
11 petroleum products claimed as exempt that is to be consumed
12 after reaching the first out of state destination. That certificate
13 shall bear the purchaser's valid seller's permit number or valid
14 fuel exemption registration number and shall be substantially in
15 the form prescribed by the board. Acceptance in good faith of
16 that certificate shall relieve the seller from liability for the sales
17 tax.

18 (b) "First out of state destination," as used in this section,
19 means the first point reached outside this state by an air common
20 carrier in the conduct of its business as a common carrier at
21 which cargo or passengers are loaded or discharged, cargo
22 containers are added or removed, fuel is bunkered, or landing or
23 docking fees are charged.

24 (c) "Immediate shipment," as used in this section, means that
25 the delivery of the fuel and petroleum products by the seller is
26 directly into an aircraft for transportation outside this state and
27 not for storage by the purchaser or any third party.

28 (d) Any air common carrier claiming exemption under
29 subdivision (a) that is not required to hold a valid seller's permit
30 shall be required to register with the board and obtain a fuel
31 exemption registration number and shall be required to file
32 returns as the board may prescribe if either the board notifies the

1 carrier that returns must be filed or the carrier is liable for taxes
2 based upon consumption of fuel erroneously claimed as exempt
3 under this section. A common carrier required to hold a fuel
4 exemption registration number shall be subject to all applicable
5 provisions of this part, Part 1.5 (commencing with Section 7200),
6 and Part 1.6 (commencing with Section 7251).

7 (e) An air common carrier claiming an exemption under
8 subdivision (a), upon request, shall make available to the board
9 records, including, but not limited to, a copy of a log abstract or a
10 cargo manifest, documenting its transportation of the fuel or
11 petroleum product to an out of state destination and the amount
12 claimed as exempt. If the carrier fails to provide these records
13 upon request, the board may revoke the carrier's fuel exemption
14 registration number.

15 (f) The board may require any air common carrier claiming an
16 exemption under this section and required to obtain a fuel
17 exemption registration number to place with it any security that
18 the board may determine pursuant to Section 6701.

19 (g) Pursuant to subdivision (a), any use of the property by the
20 purchasing air common carrier, other than that incident to the
21 delivery of the property to the carrier and the transportation of
22 the property by the carrier to the first out of state destination and
23 subsequent use in the conduct of its business as a common
24 carrier, or a failure of the carrier to document its transporting the
25 property to the first out of state destination, shall subject the
26 carrier to liability for payment of sales tax as if it were a retailer
27 making a retail sale of the property at the time of that use or
28 failure, and the sales price of the property to it shall be deemed to
29 be the gross receipts from the retail sale.

30 ~~(h) This section shall become operative on January 1, 2008.~~

31 SEC. 2. Notwithstanding Section 2230 of the Revenue and
32 Taxation Code, no appropriation is made by this act and the state
33 shall not reimburse any local agency for any sales and use tax
34 revenues lost by it under this act.

35 SEC. 3. This act provides for a tax levy within the meaning of
36 Article IV of the Constitution and shall go into immediate effect.

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2	CORRECTIONS:	
3	Heading-Authors Line 2.	
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